

**MINUTES OF THE REGULAR MEETING  
OF THE EDINA PLANNING COMMISSION  
WEDNESDAY, SEPTEMBER 28, 2004, 7:00 PM  
EDINA CITY HALL COUNCIL CHAMBERS  
4801 WEST 50<sup>TH</sup> STREET**

**MEMBERS PRESENT:**

**Chair Byron, McClelland, Lonsbury, Fischer, Swenson, Workinger, Runyan**

**ABSENT:**

**Brown**

**STAFF PRESENT:**

**Craig Larsen**

**I. APPROVAL OF THE MINUTES:**

The minutes of the September 1, 2004, meeting were filed and amended to include the recognition of Ann Swenson as an excellent liaison to the Edina Heritage Preservation Board.

**II. OLD BUSINESS:**

**Z-04-1                      Final Rezoning and Final Plat  
Mark Jones  
Pukwana Townhomes LLC  
5125 49<sup>th</sup> Street West**

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Mr. Larsen told the Commission the Council at their August 17, 2004; meeting approved the preliminary rezoning and preliminary plat for Mark Jones, 5125 49<sup>th</sup> Street West. The proposed site plan is unchanged from that given preliminary approval but suggests one variance. That variance is a result of moving the building west to provide for snow storage, landscaping and protection of the existing retaining wall on the adjacent property.

Mr. Larsen concluded staff recommends final rezoning and final plat approval subject to:

- Developers agreement
- Watershed district permit
- Subdivision dedication
- Vacation of Pukwana right of way
- Additional landscaping material along the east property line and northwest corner of the site.

The proponent, Mr. Mark Jones was present to respond to questions.

Commissioner Workinger asked Mr. Larsen if the City has any control over landscaping. Mr. Larsen responded in the affirmative pointing out the City requires a landscaping plan/bond as part of the approval process. Mr. Larsen noted at this time it is not known if the proponent has been successful in his negotiations with the railroad to acquire additional land via an easement. Presently staff is unsure of where additional landscaping would be planted until that negotiation process is completed and finalized. Continuing, Mr. Larsen added in his conversations with Mr. Jones Mr. Jones indicated that negotiations with the railroad should be complete by the time the Council hears the final request. Concluding, Mr. Larsen reiterated additional landscaping is part of the approval process.

Commissioner Workinger asked Mr. Larsen if he believes the negotiations between Mr. Jones and the railroad would be finalized by the time the City Council hears this. Mr. Larsen reiterated he believes an agreement would be finalized by the next Council meeting but if documentation isn't in-hand at that time the hearing could be continued until the agreement is finalized.

Chairman Byron asked Mr. Jones if site work is planned for this fall or is it planned as a Spring project. Mr. Jones responded it would depend on how quickly the final approval process takes. He added if an agreement is secured quickly with the railroad it is possible ground breaking would occur this fall. If approval doesn't happen by the deadline for the meeting with the Council on the 19<sup>th</sup> a Spring start is planned. Mr. Jones stated the railroad indicated they are willing to grant an easement but at this time are unsure on the size of the easement. Mr. Jones concluded he believes the railroad would give him at least 10 feet but a quote on the cost to obtain that easement hasn't been discussed.

Mr. Jones told the Commission he is agrees to provide additional landscaping as directed by Commission or city staff. Continuing, Mr. Jones explained the property directly west of the subject site is overgrown and needs to be cleared of buckthorn while retaining as many large trees as possible. Mr. Jones told the Commission in walking the property west of the existing house and up to the railroad tracks he observed that people have used this area for dumping. He told the Commission he found old car tires, lumber and a desk, west of the subject house, and those items need to be removed. Concluding, Mr.

Jones said after the easement is secured with the railroad additional landscaping would be planted, and at this time it is believed the majority of landscaping will occur along West 49<sup>th</sup> Street and the northwest corner of the site.

Commissioner Swenson asked Mr. Larsen if she understands correctly that planning and engineering staff would like to see the proposed building moved farther to the west. Mr. Larsen responded that is correct. He added the proponent has indicated his willingness to move the building 10 feet to the west.

Commissioner McClelland asked Mr. Jones if he has established a unit price. Continuing, Commissioner McClelland complemented Mr. Jones on adding a stairway to access Vernon Avenue that stairway could be used by the neighborhood gain easy walking access to Vernon Avenue.

Mr. Jones thanked Commissioner McClelland for her comment and responded that the building has been “toned down a bit” by reducing the glass with the price range remaining in the 400 thousand dollar per unit range.

Chair Byron referred to a memo from Wayne Houle, City Engineer and asked Mr. Jones if he agrees with the recommendations from Mr. Houle. Mr. Jones responded he has not personally reviewed the memo but in speaking with his civil engineer he believes he has and Mr. Houles recommendations will be met. Mr. Larsen told the Commission the memo from Wayne Houle addresses issues that are contained in the Developer’s Agreement and those issues/recommendations are ironed out between the engineer and applicant before a building permit is issued. Mr. Larsen referred to his recommendation that if approved approval is conditioned on entering into a Developers Agreement, reiterating that is an agreement between the developer and City Engineer.

Commissioner Swenson moved to recommend final rezoning and final plat approval to include approval for a 10 foot variance to the west and subject to Developers Agreement, Watershed District Permit, Subdivision Dedication, Vacation of Puklwana right of way and that additional landscaping materials be planted along the east property line and the northwest corner of the site.

Chairman Byron asked Commissioner Swenson if her approval included extending the watermain, sanitary sewer and a curb cut permit. Commissioner Swenson said her approval includes those conditions. Commissioner Lonsbury seconded the motion. All voted aye; motion carried.

### **6108 Fox Meadow Lane**

Mr. Larsen informed the Commission the proponents are requesting to transfer 10 feet of property from the lot on Fox Meadow to the lot on Blake Road.

Mr. Larsen concluded both lots would continue to meet all Zoning ordinance requirements following the transfer. Staff recommends approval of the Lot Division.

A general discussion ensued concerning the reasons for the division. It was pointed out that the Blake Road property had an existing fence and play structure encroaching on the Fox Meadow property. The proposed division would cure the encroachment and setback problems.

Commissioner Lonsbury moved approval of the lot division. Commissioner McClelland seconded the motion. All voted aye; motion carried.

### **III. OTHER BUSINESS:**

Mr. Larsen reminded the Commission Commissioner Swenson previously brought up an issue concerning PODs or portable storage units. Since that time staff has contacted neighboring communities and have found they handle POD units similar to how we do. All communities contacted by the City indicated they haven't experienced many problems with portable storage units, but if a complaint is registered and push comes to shove, the neighboring cities would handle the unit either as a nuisance or permit it under the guidelines of a storage shed depending on the circumstances. Each complaint is handled individually. Mr. Larsen said at this time the City of Edina (in the zoning ordinance) has no design standards for out buildings, and would handle complaints on PODS on a case-by-case basis. Mr. Larsen asked Commissioner Swenson her feelings on the matter.

Commissioner Swenson stated she understands handling these PODs on a case-by-case basis but questioned what would happen if someone becomes very upset about a situation. Asking wouldn't it be better to address this issue now instead of later. Commissioner Swenson commented if an ordinance is added to address PODs would "non-conforming PODs be grandfathered in.

Mr. Larsen responded the City would not want to grandfather in PODS, they have a temporary status with the City viewing them (PODS, TUBS) as temporary structures. If a complaint is registered the City could address them under the nuisance ordinance or through the building code. The City could also look at them like we do a shed if the POD appears to be used as a permanent storage structure. Mr. Larsen explained a number of years ago the City received numerous complaints about residents not completing building exteriors in a timely fashion. This problem resulted in the City placing into our building code a time frame to finish building exteriors. PODs could be handled the same way.

Commissioner Swenson questioned what would happen if a family collects junk and stores their junk in a POD and the POD becomes a permanent fixture. Commissioner Larsen commented he believes that would be a very expensive way to store items versus purchasing a shed, but if a complaint was registered. Mr. Larsen said staff would probably handle it like a shed and make them meet the City requirements for a shed. The POD must be located in the side or rear yard meeting the required setbacks. Mr. Larsen said in his opinion before changing the zoning ordinance the City should exhaust its existing rules to bring these PODS into conformance.

Chair Byron said there is an appeal to tie this to the building process. He said that would permit the legitimate use of PODS or TUBS. If a permit is active the temporary structure is allowed. Commissioner Losnbury said in his opinion the issue is our definition of an outbuilding. He pointed out used PODS can be purchased to be used as a "shed". Mr. Larsen commented he didn't realize PODs were sold as a structure. Commissioner Lonsbury said one can purchase older PODs from a company in Eden Prairie. Chair Byron asked how the code addressed outbuildings. Mr. Larsen said the zoning code establishes setbacks for outbuildings and lot coverage restraints for outbuildings. The purpose in placing a maximum out building percentage is to prevent residents from constructing detached garages larger than their house. Mr. Larsen said City code stipulates that all outbuildings cannot exceed 1000 square feet and must also comply with the total allowed lot coverage of 25%. Concluding, Mr. Larsen said he is hesitant in using the zoning code to police these structures.

Commissioner Workinger said he agrees if PODS are put in the zoning ordinance they are given legitimacy. Commissioner Workinger suggested using the sign ordinance to police the PODs. The sign ordinance does not permit advertisement in the residential zoning district and if the POD is used as a shed the word POD or TUB, must be removed and the structure would be required to meet accessory structure standards. Mr. Larsen agreed that the problem with PODS must be addressed without penalizing the legitimate use of TUBS or PODS. Commissioner McClelland suggested a time limit. Mr. Larsen said presently there is a time limit on building permits and POD storage could be tied to that. Mr. Larsen asked the Commission to give staff more time (after the 1<sup>st</sup> of the year) to further research this issue.

Commissioner Workinger said another issue that concerns him is the permitted height of outbuildings. He explained a neighbor constructed an outbuilding in his rear yard that is very tastefully done, blends in very well with his house but is extremely high while meeting code. Commissioner Workinger asked if staff could please look at the allowed height of accessory structures.

Mr. Larsen responded staff would be happy to review accessory structure height and he believes that whether we like it or not there will always be cases

that don't work and in his opinion it all seems to boil down to massing . Commissioner Workinger agreed and said at least in his opinion revising the code and creating tighter limits the variance process could be used used. He said variances afford the City some control.

Mr. Larsen told the Commission staff will review both accessory structure height and temporary structures (PODS) and this can be re-visited after the 1<sup>st</sup> of the year.

#### **IV. ADJOURNMENT:**

The meeting adjourned at 8:00 PM